



Minutes of MAYOR AND COUNCIL Meeting

Approved by Mayor and Council
on April 17, 2007

Date of Meeting: February 27, 2007

The Mayor and Council of the City of Tucson met in regular session in the Mayor and Council Chambers in City Hall, 255 West Alameda Street, Tucson, Arizona, at 5:36 p.m. on Tuesday, February 27, 2007 all members having been notified of the time and place thereof.

1. **ROLL CALL**

The meeting was called to order by Mayor Walkup and upon roll call, those present and absent were:

Present:

Carol W. West
Karin Uhlich
Shirley C. Scott
Steve Leal
Nina J. Trasoff
Robert E. Walkup

Vice Mayor, Council Member Ward 2
Council Member Ward 3
Council Member Ward 4
Council Member Ward 5 (arrived at 5:38 p.m.)
Council Member Ward 6
Mayor

Absent/Excused:

José J. Ibarra

Council Member Ward 1

Staff Members Present:

Mike Hein
Michael Rankin
Kathleen S. Detrick
Mike Letcher

City Manager
City Attorney
City Clerk
Deputy City Attorney

2. INVOCATION AND PLEDGE OF ALLEGIANCE

The invocation was given by Rabbi Samuel Cohon, Temple Emanu-El, after which the Boys and Girls Club of Tucson led the pledge of allegiance.

(Note: Council Member Leal arrived at 5:38 p.m.)

Kathleen S. Detrick, City Clerk, announced Susie Rogers would be assisting with anyone in the audience needing Spanish language assistance for items listed on the agenda.

3. MAYOR AND COUNCIL REPORT: SUMMARY OF CURRENT EVENTS

Mayor Walkup announced City Manager's communication number 107 dated February 27, 2007 would be received into and made a part of the record. He also announced this was the time scheduled to allow members of the Council to report on current events and asked if there were any reports.

- a. Council Member Trasoff reported on a meeting that had taken place at the Ward 6 office concerning urban coyotes. The main concern was that people were feeding the coyotes and they were getting comfortable with humans.

4. CITY MANAGER'S REPORT: SUMMARY OF CURRENT EVENTS

Mayor Walkup announced City Manager's communication number 108, dated February 27, 2007, would be received into and made a part of the record. He also announced this was the time scheduled to allow the City Manager to report on current events, and asked for that report.

No report was given.

5. LIQUOR LICENSE APPLICATIONS

Mayor Walkup announced City Manager's communication number 110, dated February 27, 2007, would be received into and made a part of the record. He asked the City Clerk to read the Liquor License Agenda.

- b. Liquor License Applications

New License(s)

1. Le Delice Bakery & Café, Ward 2
7245 E. Tanque Verde
Applicant: Elania Michon Penuel
Series 12, City 104-06
Action must be taken by: March 27, 2007
Staff has indicated the applicant is in compliance with city requirements.

2. Bistro 44, Ward 2
6761 E. Tanque Verde Rd. #D
Applicant: Richard Adam Siegler
Series 12, City 4-07
Action must be taken by: March 18, 2007
Staff has indicated the applicant is in compliance with city requirements.

c. Special Event(s)

1. North 4th Avenue Merchants Association, Ward 6
4th Avenue between 9th St. University Blvd.
Applicant: Kurt Patrick Tallis
City T5-07
Date of Event: March 23-25, 2007
Fundraiser
Staff has indicated the applicant is in compliance with city requirements.
2. The University of Arizona Foundation, Ward 6
1031 N. Olive Street
Applicant: James H. Moore, Jr.
City T9-07
Date of Event: March 23, 2007
Fundraiser
Staff has indicated the applicant is in compliance with city requirements.
3. St. Patrick's Day Parade of Tucson, Inc., Ward 6
221 S. 6th Ave.
Applicant: Andrew Jacob Brown
City T10-07
Date of Event: March 17, 2007
Staff has indicated the applicant is in compliance with city requirements.

d. Agent Change

NOTE: There were no agent changes scheduled for this meeting.

It was moved by Council Member Trasoff duly seconded, and carried by a voice vote of 6 to 0 (Council Member Ibarra absent/excused), to forward liquor license applications 5b1 and 5b2 and 5c1 through 5c3 to the Arizona State Liquor Board with a recommendation for approval.

6. CALL TO THE AUDIENCE

Mayor Walkup announced this was the time any member of the public was allowed to address the Mayor and Council on any issue except for any items scheduled for a public hearing. Speakers would be limited to three-minute presentations.

- a. Bill Katzel spoke about the upcoming 25th El Tour de Tucson and League of American Bicyclists 2007 National Bicycle Rally in Tucson. He also mentioned that it was the time to apply for a March 2008 upgrade of Tucson's Bicycle Friendly status from Gold to Platinum.
- b. Michael Toney spoke about laser computers and the world's fastest computer optical chip, and said that optics research was being neglected in Tucson.
- c. Robert Blizzard spoke about the Poverty and Urban Stress discussion and said that the needs of disabled people and disabled students have been overlooked.
- d. Roy Warden spoke about illegal immigration and said the problem was being ignored.
- e. Ken Scoville spoke about the U.S. Magnetic Observatory in Udall Park and said that the buildings should be saved because they were historic and may be eligible for the National Register.
- f. Russ Dove spoke regarding lawlessness and said that the Federal Government was not enforcing the laws pertaining to the border.

7. CONSENT AGENDA - ITEMS A THROUGH G

Mayor Walkup announced the reports and recommendations from the City Manager on the Consent Agenda Items would be received into and made a part of the record. He asked the City Clerk to read the Consent Agenda.

- A. ASSURANCE AGREEMENT: (S06-033) LEE STREET SUBDIVISION (RCP), LOTS 1 TO 5 AND COMMON AREAS "A", "B", AND "C"
 1. Report from City Manager FEB27-07-105 WARD 6
 2. Resolution No. 20588 relating to planning: authorizing the Mayor to execute an Assurance Agreement securing the completion of improvements required in connection with the approval in Case No. S06-033 of a final plat for the Lee Street RCP Subdivision, Lots 1 to 5 and Common Areas "A" – "C"; and declaring an emergency.
- B. FINAL PLAT: (S06-033) LEE STREET SUBDIVISION (RCP), LOTS 1 TO 5 AND COMMON AREAS "A", "B", AND "C"
 1. Report from City Manager FEB27-07-106 WARD 6

2. Staff recommends that, after approval of the assurance agreement, the Mayor and Council approve the final plat as presented. The applicant was advised that building/occupancy permits were subject to the availability of water/sewer capacity at the time of actual application.
- C. CITY VEHICLES: ANNUAL APPROVAL OF EXEMPTION OF CERTAIN CITY VEHICLES FROM BEARING IDENTIFYING MARKINGS
1. Report from City Manager FEB27-07-111 CITY-WIDE
 2. Resolution No. 20590 relating to city vehicles; pursuant to A.R.S. Section 38-538.03(B), exempting certain city motor vehicles from the requirement that they bear the designation of the City of Tucson; making this exemption effective from February 27, 2007 through and including February 26, 2008; and declaring an emergency.
- D. PUBLIC IMPROVEMENTS: HARRISON ROAD, OLD SPANISH TRAIL TO GOLF LINKS ROAD DISTRICT PAVING IMPROVEMENT
1. Report from City Manager FEB27-07-103 WARD 2
 2. Resolution No. 20589 relating to Improvement Districts: repealing Resolution Number 20545 of January 17, 2007; fixing the time when Mayor and Council of the City of Tucson will hear and pass upon the assessments and proceedings theretofore had and taken for the improvement known as the "Harrison Road, Old Spanish Trail to Golf Links Road District Paving Improvement" in the City of Tucson, Arizona.
- Kathleen S. Detrick, City Clerk, announced that the agenda incorrectly listed this item as being in Ward 2. It should be listed as Ward 4.
- E. APPROVAL OF MINUTES
1. Report from City Manager FEB27-07-112 CITY-WIDE
 2. Approval of minutes for the regular meetings of the Mayor and Council held on January 17, 2007, January 23, 2007 and the special meeting held on January 30, 2007.
- F. WATER: AMENDMENT TO THE CENTRAL ARIZONA PROJECT SUBCONTRACT TO INCLUDE ADDITIONAL ALLOCATION
1. Report from City Manager FEB27-07-114 CITY-WIDE AND OUTSIDE CITY

2. Resolution No. 20591 relating to water; approving and authorizing an amendment to the Central Arizona Project Subcontract between the United States Department of the Interior, the Central Arizona Water Conservation District, and the City of Tucson to include additional allocation of 8,206 acre-feet; and declaring an emergency.

G. DEVELOPMENT: AGREEMENT WITH 5151 EAST, LLC AND TUCSON RETAIL, LLC FOR DEVELOPMENT OF THE “SINCLAIR” PARCEL AT 36TH STREET AND KINO PARKWAY

1. Report from City Manager FEB27-07-115 WARD 5
2. Resolution No. 20592 relating to development approving and authorizing the execution of a Development Agreement between the City of Tucson, 5151 East, LLC, and Tucson Retail, LLC for the development of the “Sinclair” Parcel; and declaring an emergency.

Item G was considered separately at the request of Council Member Leal.

It was moved by Council Member Uhlich, duly seconded, that Consent Agenda Items A through F, with the correction to Item D and with the exception of Item G, which would be considered separately, be passed and adopted and the proper action taken.

Mayor Walkup asked if there was further discussion. Hearing none, he asked for a roll call vote.

Upon roll call, the results were:

Aye: Council Members Uhlich, Scott, Leal and Trasoff;
Vice Mayor West and Mayor Walkup

Nay: None

Absent/Excused: Council Member Ibarra

Consent Agenda Items A through F, with the correction to Item D and with the exception of Item G, which would be considered separately, were declared passed and adopted by a roll call vote of 6 to 0.

7. CONSENT AGENDA - ITEM G

G. DEVELOPMENT: AGREEMENT WITH 5151 EAST, LLC AND TUCSON RETAIL, LLC FOR DEVELOPMENT OF THE “SINCLAIR” PARCEL AT 36TH STREET AND KINO PARKWAY

1. Report from City Manager FEB27-07-115 WARD 5

2. Resolution No. 20592 relating to development approving and authorizing the execution of a Development Agreement between the City of Tucson, 5151 East, LLC, and Tucson Retail, LLC for the development of the “Sinclair” Parcel; and declaring an emergency.

Kathy S. Detrick, City Clerk, announced that Item G would be considered separately, at the request of Council Member Leal.

Council Member Leal thanked his colleagues for the courtesy of devoting time to this item. He gave credit for this project to Luis Gutierrez, former City Manager, who along with the Mayor and Council, realized the significance of this site. He considered this a very important development with the University of Arizona research facility. John Bremond, of KB Homes, was successful in obtaining the three hundred and fifty-acre site close to the University of Arizona, downtown, Tucson International Airport, and Interstate 10. Council Member Leal thanked, among others, Mr. Bremond and his staff; Eric Davis of Eastborn Development; Mr. Portner; Mr. Hein, City Manager; Mr. Rankin, City Attorney; and Jaret Barr, City Manager’s Office.

Council Member Leal said this development agreement would do great things for the University of Arizona and the City of Tucson. Council Member Leal said that this project would impact Tucson with forty-seven million dollars in sales tax revenue just in the first ten years of operation. It would generate an estimated six million in commercial and residential impact fees for transportation and parks in the area. Council Member Leal stated that there would be an estimated 4.5 million of sales tax from construction. This money could be used for other projects the neighborhoods had discussed. Council Member Leal stated the developer would spend an estimated twelve million dollars in transportation and other infrastructure improvements. The builders had contributed two million to the City funding of neighborhood improvements and economic betterment for the area. This would bring nine hundred permanent jobs into the area.

Council Member Leal stated the development of this parcel was consistent with the City’s *General Plan* under the terms of the agreement and proposed Planned Area Development (PAD). This included infrastructure obligations and all improvements required by the City approved impact traffic analysis such as the flood control improvements, trail improvements, widening south Park Avenue, construction of intersections, and also a pedestrian bridge that was needed for several years. That bridge would cross Kino Parkway and make a safe way for all the children. What also resulted from that was a ten-acre site of ground on that property for a school site. There would be an effort to look for other sites in that area that may work, but if it did not work, the land would be there. Other things that had happened was that both Star Burst and KB homes had agreed to a two thousand dollar a roof impact fee for the school. That would generate three million dollars for the Tucson Unified District for construction of a school in that area. He invited the builders to speak on behalf of the development, to help the Council to understand the impact that this would have on the community.

John Bremond, KB Homes, said that he had been with the project for two and a half years. The Mayor and Council and staff had been engaged in discussions and

believed that they were able to identify impacts created by the development and they worked collaboratively with his development team to try and address each of the issues and to identify appropriate mitigation that was reflected in the development agreement. Mr. Bremond thanked Council Member Leal and staff for their assistance in the effort and arriving at that point of the project. He believed that the bridge would be a world class project in a mixed-use community that would bring out the best elements of what Council Member Leal referred to in his opening statement.

Jim Portner, Projects International, said it had been a shared experience, which had been arduous, productive, and exhilarating at times but always professional. Mr. Portner said he thought it was time well spent and they had a PAD document to balance the equation. The development agreement went one step further because they all identified and recognized needs of the community created out of the project that went beyond what could have been done reasonably within the context of a rezoning or regulatory document like a PAD. They had to go one step further to get the development agreement right. That was what Council Member Leal had been committed to from day one. Mr. Portner thanked Mayor and Council for having the item before them that night and allowing them to move one step forward to have a project that everyone would be proud of.

Eric Davis, Retail West Properties, said that he had built a lot of retail projects in different cities across the west. There were small town, big towns, and small and big projects and almost every one of them had an agreement with the city over infrastructure based on impacts of traffic and utilities. Mr. Davis said that this project was the biggest development agreement he had ever signed. They had attended all the meetings at various locations and came away with a feeling of commitment from the people who wanted the project. The community did not want to be forgotten.

It was moved by Council Member Leal, duly seconded, to pass and adopt Item G.

Council Member Uhlich thanked everyone involved, because she knew that this was an important moment and project for the community. She said that she did not feel prepared enough to vote on the issue at this time. She said that it was not a reflection of the documents, it was because she did not have the opportunity to study this issue. Council Member Uhlich said that even asking questions on the issue, she felt that she would overlook something that was her obligation to address. She said there had been silence on this project for eight months and it was a surprise to receive the item on the consent agenda. She had a couple of questions because of the complexity of the agreement. She wondered if they could wait until they received the development agreement with the PAD and look at each section and proceed from there. She said that she felt uneasy knowing that there was not a representative from University of Arizona and wanted to know how they stood on this subject.

A substitute motion was made by Council Member Uhlich to postpone this item until the Council received the development agreement with the PAD.

Council Member Leal stated that the University of Arizona was not part of the development agreement. The University of Arizona was a contributor to the PAD process but they were not a part of this development agreement.

Council Member Uhlich said the process usually included the Pre-Annexation Development Agreement or PAD with the ability to read the agreement and see how they integrate together. She stated that she was not trying to minimize the importance of proceeding, but she felt that she had an obligation to ask the questions. She asked when the PAD agreement comes forward in March, if there would there be a public hearing.

Mike Rankin, City Attorney, stated that the PAD would come before the Mayor and Council and there would be a public hearing and the Mayor and Council would exercise their discretion in consideration of the PAD.

Council Member Uhlich asked that if they would do this in the normal process that she had become accustomed to, would the rezoning materials, development agreement and the PAD come together at this hearing.

Mr. Rankin, stated he could not say if this was a typical or an atypical situation. He stated that Council Member Leal was right when he stated that this was unusual. He explained that the scenario usually presents itself by the Pre-Annexation Development agreement, and in connection with the original city zoning followed up by the subsequent rezoning.

Council Member Uhlich stated that the development agreement as noted was typically associated with offsetting the impacts of the development. She explained that if they did not see the PAD of the development, it was difficult to know what the impacts would be.

Council Member Uhlich withdrew her substitute motion and offered another substitute motion that when the development agreement comes forward in March that the PAD also comes forward to allow the Council to look at them in concert to have the chance to digest the information that was brought forth.

Mayor Walkup asked if Council Member Uhlich had withdrawn her substitute motion.

Council Member Uhlich, stated that she withdrew one substitute motion and offered another substitute motion in hopes that her colleagues would consider allowing more time to digest the documents and to look at them in concert.

Council Member Trasoff asked to have further discussion on the matter before deciding to vote on the item.

Mr. Rankin, stated that it was up to the Chair to decide if they should have further discussion on a matter.

Mayor Walkup asked if there were any further comments on the original motion, as there did not appear to be a second for the substitute motion.

Council Member Trasoff, stated that she agreed about not having time to look at the item and said that she had questions that she would like to raise on the issue. She stated that this project had the potential to become a brilliant aspect of the community. She stated that this was necessary and was something that would fulfill needs for a community that had been neglected. She believed that the ability to combine retail, housing, and jobs in a blighted area, needed the special assistance that this agreement could give. She asked if this moved forward with the development agreement, would it tie them to the Planned Area Development (PAD) and if it would approve the bending of the big box ordinance or breach it.

Mr. Rankin, stated that the approval of the development agreement did not constitute of approval or pre-approval of the Planned Area Development (PAD). He said it also did not constitute the approval of any particular condition that might relate to the large retail criteria. He stated that the development agreement points out that the parties involved acknowledge that any decision by the Council to adopt the Planned Area Development was a legislative act taken in the public interest and solely the discretion of the Mayor and Council. Mr. Rankin stated this would not bind the Mayor and Council to acting one way or another on the PAD.

Council Member Trasoff expressed concern about the project and said she wanted a public acknowledgment that this was not in any way a vote in support of certain elements. She said she has tremendous respect for John Bremond, KB Homes, for fighting for a project like this and the work put into this. She said she felt this project was good for the community because of retail establishments that the community needed and deserved. Her concern with the retail plan was that University of Arizona and KB Homes were held hostage by one aspect of the retail plan. She stated that the University of Arizona and KB Homes were good corporate citizens because they were active participants in the community and her concern was that the retail would not understand the way everyone works together to make Tucson better. She said she agreed with the spirit which Council Member Uhlich intended, but she was hoping to be surprised that when this comes back to them that there would not be any issues. She said that she had to applaud all of the parties involved, including Council Member Leal and KB Homes, with getting a decent school for kids, making sure the school was not over populated and resolving the issues with Tucson Unified School District (TUSD). She said that there were excellent elements in this project, and she hoped that they could come to an agreement on the final plan.

Vice Mayor West stated that perhaps this should come back when they had the rezoning. She said she found this item particularly difficult. She stated that she had spoken with Mr. Rankin earlier to find out if this was a usual kind of thing and to find out why it was on the agenda. She said it seemed what Council Member Uhlich was saying was that this should come back with the rezoning. She said that she had no qualms on the

item and she complemented Council Member Leal on the notable project. She said this was something that was very much needed in the Thirty-sixth Street and Kino area, but to have it on agenda this way was difficult, because she liked to have everything holistically. She expressed that this should be delayed until the rezoning hearing.

Mayor Walkup asked if there was further discussion. Hearing none, he asked for a roll call vote.

Upon roll call, the results were:

Aye: Council Members Scott, Trasoff, and Leal;
Vice Mayor West and Mayor Walkup

Nay: Council Members Uhlich

Absent/Excused: Council Member Ibarra

Consent Item G was declared passed and adopted by a roll call vote of 5 to 1.

Kathleen S. Detrick, City Clerk, requested a second roll call vote for the sole purpose of the Emergency Clause.

Upon roll call, the results were:

Aye: Council Members Uhlich, Scott, Leal and Trasoff;
Vice Mayor West and Mayor Walkup

Nay: None

Absent/ Excused: Council Member Ibarra

Consent Item G was declared passed and adopted by a roll call vote of 6 to 0, with the Emergency Clause.

8. ZONING: (C9-06-31) SUMMIT DEVELOPMENT – FORT LOWELL ROAD, R-2 TP C-1, CITY MANAGER’S REPORT

Mayor Walkup announced City Manager’s communication number 104, dated February 27, 2007 would be received into and made a part of the record. He announced that this was a request to rezone property located on the northeast corner of Ft. Lowell Road and Alvernon Way. He stated that the Zoning Examiner and Development Services recommend approval subject to certain conditions. He asked the applicant to come forward if they were present.

Mike Grassinger, Planning Center, stated that he was agreeable with the terms and conditions.

It was moved by Vice Mayor West, duly seconded, that the request for rezoning be approved as recommended by the Zoning Examiner.

Mayor Walkup asked if there was further discussion. Hearing none, he asked for a voice vote.

The motion to authorize the request for rezoning as recommended by the Zoning Examiner was declared passed and adopted by a voice vote of 6 to 0 (Council Member Ibarra absent/excused).

9. ZONING: (C9-02-31) US HOMES – BENSON HIGHWAY, I-1 TO R-1, ORDINANCE ADOPTION

Mayor Walkup announced City Manager's communication number 113, dated February 27, 2007 would be received into and made a part of the record. He asked the City Clerk to read Ordinance number 10377 by number and title only.

Ordinance No. 10377 relating to zoning: amending zoning district boundaries in the area located on the north side of Julian Wash approximately 300 feet north of Benson Highway and 300 feet east of Campbell Avenue in Case C9-02-31, US Homes – Benson Highway, I-1 to R-1, and setting an effective date.

It was moved by Council Member Leal, duly seconded, to continue this item for one week to the March 6, 2007 meeting.

Mayor Walkup asked if there was further discussion. Hearing none, he asked for a voice vote.

The motion to continue Zoning Case C9-02-31 to the March 6, 2007 meeting was declared passed and adopted by a voice vote of 6 to 0 (Council Member Ibarra absent/excused).

10. APPOINTMENTS TO BOARDS, COMMITTEES AND COMMISSIONS

Mayor Walkup announced City Manager's communication number 109, dated February 27, 2007 would be received into and made a part of the record. He asked if there were any personal appointments to be made.

Vice Mayor West announced her personal appointment of Nancy Fahringer to the Stormwater Advisory Committee.

Council Member Leal announced his personal appointment of Joaquin Murrietta to the Citizen's Police Advisory Committee.

11. ADJOURNMENT: 6:45 p.m.

Mayor Walkup announced the next regularly scheduled meeting of the Mayor and Council would be held on Tuesday, March 6, 2007 at 5:30 p.m. in the Mayor and Council Chambers, City Hall, 255 West Alameda, Tucson, Arizona.

MAYOR

ATTEST:

CITY CLERK

CERTIFICATE OF AUTHENTICITY

I, the undersigned, have read the foregoing transcript of the meeting of the Mayor and Council of the City of Tucson, Arizona, held on the 27th day of February 2007, and do hereby certify that it is an accurate transcription.

DEPUTY CITY CLERK

KSD: jmg/kad